

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 571

Introduced by Assembly Member Saldana

February 25, 2009

An act to amend Section 8254 of, to add and repeal Section 8254.5 of, and to add and repeal Article 5.5 (commencing with Section 8260) to of Chapter 2 of Part 3 of Division 6 of, the Fish and Game Code, relating to commercial fishing, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 571, as amended, Saldana. Commercial fishing: lobster-stamp management enhancement.

Existing law prohibits the taking of lobsters for commercial purposes except under a valid lobster permit issued by the Department of Fish and Game. *The base permit fee for a lobster permit is \$265.*

~~This bill would prohibit the taking of lobster for commercial purposes without a commercial lobster stamp affixed to a valid lobster permit. The bill would require the department to issue a commercial lobster stamp upon application and payment of an unspecified fee., commencing April 1, 2010, and until March 31, 2015, would increase the permit fee for a lobster permit to \$565. Under the bill, \$300 of the permit fee would be known as the Lobster Management Enhancement Supplement. The bill would require the department to deposit-stamp supplement revenues in the Commercial Lobster Stamp Management Enhancement Account, which the bill would create. The bill would continuously appropriate money in the account to the Ocean Protection Council for new or expanded lobster projects in the state to improve lobster conservation and management to fund specified projects and programs that support~~

long-term conservation or improved management, or both, of the California spiny lobster fishery. The bill would require the council to appoint a 5-member—~~Commercial Lobster—Stamp Management Enhancement~~ Advisory Committee to recommend to the council projects *and programs* and budgets for the expenditure of account ~~revenues~~. ~~Money in the account would also be available, upon appropriation by the Legislature, to the committee for the purpose of supporting long-term conservation and improved management of the California spiny lobster fishery.~~ The provisions of the bill *moneys. Those lobster management enhancement provisions* would be repealed on January 1, 2014. ~~Because a violation of the stamp requirement would be a crime, this bill would impose a state-mandated local program by creating a new crime.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California's spiny lobster fishery is an important component
- 4 of California's marine ecosystem, as well as an important source
- 5 of jobs for California fishermen *and fisherwomen* and food for
- 6 consumers.
- 7 (b) California's ~~lobster fishermen~~ *commercial and recreational*
- 8 *lobster fishermen and fisherwomen*, primarily through associations,
- 9 should participate in the development and implementation of new
- 10 approaches to managing lobster fishing. Those approaches should
- 11 be designed to ensure economical and sustainable fishing.
- 12 (c) California's ~~lobster fishermen's~~ *fishing* associations will
- 13 greatly benefit from an established mechanism that will provide
- 14 a steady source of funds for projects that promote the ~~long-term~~
- 15 *long-term* conservation and improved management of the
- 16 California spiny lobster fishery.
- 17 SEC. 2. *Section 8254 of the Fish and Game Code is amended*
- 18 *to read:*

1 8254. (a) Lobsters shall not be taken for commercial purposes
2 except under a valid lobster permit issued to that person that has
3 not been suspended or revoked, subject to regulations adopted by
4 the commission.

5 (b) Every person who takes, assists in taking, possesses, or
6 transports lobsters for commercial purposes while on any boat,
7 barge, or vessel, or who uses or operates or assists in using or
8 operating any boat, net, trap, line, or other appliance to take lobsters
9 for commercial purposes, shall have a valid lobster permit.

10 (c) ~~The~~ Except as provided in Section 8254.5, the permit fee
11 for a lobster permit is two hundred sixty-five dollars (\$265).

12 (d) The fee for a lobster crewmember permit is one hundred
13 twenty-five dollars (\$125).

14 (e) For the purposes of this section, it is prima facie evidence
15 that lobster is taken for commercial purposes if the possession of
16 lobster is more than three times the sport bag limit.

17 SEC. 3. Section 8254.5 is added to the Fish and Game Code,
18 to read:

19 8254.5. (a) Notwithstanding subdivision (c) of Section 8254,
20 commencing April 1, 2010, the permit fee for a lobster permit shall
21 be five hundred sixty-five dollars (\$565). Three hundred dollars
22 (\$300) of the permit fee is a surcharge and shall be known as the
23 Lobster Management Enhancement Supplement. The department
24 shall deposit Lobster Management Enhancement Supplement
25 revenues in the Lobster Management Enhancement Account
26 pursuant to Section 8262.

27 (b) This section shall become inoperative on March 31, 2015,
28 and, as of January 1, 2016, is repealed, unless a later enacted
29 statute, that becomes operative on or before January 1, 2016,
30 deletes or extends the dates on which it becomes inoperative and
31 is repealed.

32 ~~SEC. 2:~~

33 SEC. 4. Article 5.5 (commencing with Section 8260) is added
34 to Chapter 2 of Part 3 of Division 6 of the Fish and Game Code,
35 to read:

36
37 Article 5.5. Lobster ~~Stamp~~ Management Enhancement
38 Supplement
39

40 8260. As used in this article:

1 (a) “Account” means the ~~Commercial Lobster Stamp~~ *Lobster*
2 *Management Enhancement* Account established in Section 8262.

3 (b) “Committee” means the ~~Commercial Lobster Stamp~~ *Lobster*
4 *Management Enhancement* Advisory Committee established
5 pursuant to Section 8263.

6 (c) “Council” means the Ocean Protection Council established
7 in *Section* 35600 of the Public Resources Code.

8 8261. ~~(a) A person shall not take lobster for commercial~~
9 ~~purposes unless that person has a commercial lobster stamp affixed~~
10 ~~to his or her valid lobster permit.~~

11 ~~(b) The department shall issue a commercial lobster stamp upon~~
12 ~~application and payment of a base fee of _____ in the _____ license~~
13 ~~year, which shall be adjusted annually thereafter pursuant to~~
14 ~~Section 713.~~

15 ~~(c) The base fee may be adjusted annually by a majority vote~~
16 ~~of the Commercial Lobster Stamp Advisory Committee established~~
17 ~~pursuant to Section 8263, but shall not exceed _____.~~

18 ~~(d) A commercial lobster stamp is valid during the commercial~~
19 ~~lobster season of the year in which it was issued.~~

20 8262. ~~Revenues received by the department from the fees~~
21 ~~imposed by Section 8261, and any interest earned on those fees,~~
22 ~~shall be deposited in the Commercial Lobster Stamp Account,~~
23 ~~which is hereby established as a separate account of the California~~
24 ~~Ocean Protection Trust Fund in the State Treasury.~~
25 ~~Notwithstanding Section 13340 of the Government Code, the~~
26 ~~money in the account is continuously appropriated to the council~~
27 ~~for new or expanded lobster projects in the state to improve lobster~~
28 ~~conservation and management. Money in the account shall also~~
29 ~~be available, upon appropriation by the Legislature, to the~~
30 ~~committee for the purpose of supporting long-term conservation~~
31 ~~and improved management of the California spiny lobster fishery,~~
32 ~~consistent with Public Resources Code 35650, including, but not~~
33 ~~limited to, all of the following:~~

34 ~~(a) Purchasing transferable lobster permits in order to address~~
35 ~~overcapitalization.~~

36 ~~(b) Marine Stewardship Council certification.~~

37 ~~(c) Implementing new management approaches that optimize~~
38 ~~catch per unit effort and create incentives for ecosystem~~
39 ~~improvement.~~

40 ~~(d) Payment of loans to the California Fisheries Fund.~~

1 ~~(e) Department administrative overhead costs or collection costs,~~
2 ~~not to exceed one percent of the annual expenditures from the~~
3 ~~account.~~

4 ~~(f) Committee administrative overhead costs or collection costs,~~
5 ~~not to exceed three percent of the annual expenditures from the~~
6 ~~account.~~

7 8262. (a) *Lobster Management Enhancement Supplement*
8 *revenues received by the department pursuant to Section 8254.5,*
9 *and any interest earned on those revenues, shall be deposited*
10 *monthly in the Lobster Management Enhancement Account, which*
11 *is hereby established as a separate account of the California Ocean*
12 *Protection Trust Fund in the State Treasury. Notwithstanding*
13 *Section 13340 of the Government Code, the money in the account*
14 *is continuously appropriated to the council for projects and*
15 *programs to improve lobster conservation and management*
16 *consistent with subdivision (b).*

17 (b) *Projects and programs recommended by the committee shall*
18 *support long-term conservation or improved management, or both,*
19 *of the California spiny lobster fishery, consistent with Section*
20 *35650 of the Public Resources Code. Potential projects and*
21 *programs include, but are not limited to, all of the following:*

22 (1) *Purchasing lobster permits or trap certificates to address*
23 *overcapitalization in the fishery.*

24 (2) *Obtaining Marine Stewardship Council sustainability*
25 *certification.*

26 (3) *Implementing new management approaches that optimize*
27 *catch per unit effort and create incentives for ecosystem*
28 *improvement.*

29 (4) *Repaying any California Fisheries Fund loans.*

30 (5) *Conducting research leading to informed and strategic*
31 *management of the fishery.*

32 (6) *Planning and development of a lobster fishery management*
33 *plan.*

34 (c) *Moneys in the account shall not be expended for a project*
35 *or program unless the expenditure has been approved by both the*
36 *Secretary of the Ocean Protection Council and a majority of the*
37 *members of the committee.*

38 (d) *Department administrative overhead, collection, or other*
39 *charges shall not exceed 1 percent of the annual expenditures from*
40 *the account.*

1 (e) *Council administrative overhead, collection, or other charges*
2 *shall not exceed 1 percent of the annual expenditures from the*
3 *account.*

4 8263. (a) The council shall appoint a ~~Commercial Lobster~~
5 ~~Stamp Lobster Management Enhancement~~ Advisory Committee,
6 consisting of five members, as follows.

7 (1) ~~Two members, each~~ *One member*, with an alternate,
8 representative of the state's commercial lobster ~~interests~~ *fishermen*
9 *and fisherwomen.*

10 (2) ~~One member~~ *Two members, each with an alternate*, selected
11 from the membership of the California Lobster ~~Trap Fishery and~~
12 ~~Trap Fishermen's Association.~~ This subdivision does not prohibit
13 persons selected pursuant to paragraph (1) from also being a
14 member of the California Lobster ~~Trap Fishery and Trap~~
15 ~~Fishermen's Association.~~

16 (3) The Secretary of the Ocean Protection Council, *or his or*
17 *her designee.*

18 (4) The director, or his or her designee.

19 ~~(b) The three fisherman committee members shall be selected~~
20 ~~from names of persons submitted by commercial lobster fishermen~~
21 ~~of this state. The council shall appoint persons to the committee~~
22 ~~who possess knowledge and experience in subjects that are of~~
23 ~~specific value to the committee.~~

24 ~~(c) The term of appointment to the committee shall be not more~~
25 ~~than four years.~~

26 ~~(d) The committee shall recommend to the council projects and~~
27 ~~budgets for the expenditure of revenues received pursuant to this~~
28 ~~article. The council shall include these recommendations in the~~
29 ~~Governor's Budget and shall not recommend funding or any project~~
30 ~~not contained in the committee's recommendations.~~

31 ~~(e) The council shall submit to the committee, at least annually,~~
32 ~~an accounting of funds derived from the account, including the~~
33 ~~number of stamps sold, funds generated and expended, and the~~
34 ~~status of projects funded pursuant to this article.~~

35 ~~(f) In furtherance of the purposes articulated in subdivision (b)~~
36 ~~of Section 8262, the council may contract with, or offer grants to,~~
37 ~~nonprofit commercial fishery organizations that, prior to January~~
38 ~~1, 2010, were conducting projects consistent with this article.~~

39 ~~(b) The committee members selected pursuant to paragraphs~~
40 ~~(1) and (2) of subdivision (a) and their alternates shall be selected~~

1 *by the Secretary of the Ocean Protection Council from names of*
2 *persons submitted by licensed California commercial lobster*
3 *fishermen and fisherwomen. The Secretary of the Ocean Protection*
4 *Council shall appoint persons to the committee who possess*
5 *knowledge and experience in subjects that are of specific value to*
6 *the committee.*

7 *(c) The committee members selected pursuant to paragraphs*
8 *(1) and (2) of subdivision (a) or their alternates shall receive actual*
9 *and necessary traveling expenses incurred in conformance with*
10 *reimbursement procedures established by the council. Travel*
11 *expenses shall be paid from the account.*

12 *(d) A term of appointment to the committee shall not be more*
13 *than five years.*

14 *(e) The committee shall recommend to the council projects and*
15 *programs consistent with subdivision (b) of Section 8262 and*
16 *budgets for the expenditure of moneys received pursuant to this*
17 *article.*

18 *(f) The council shall prepare and submit to the committee an*
19 *annual report that includes both of the following:*

20 *(1) An accounting of funds deposited into and expended from*
21 *the account, including, but not limited to, the number of permits*
22 *sold, revenues generated, moneys expended, and the status and*
23 *actual project expenditures of projects or programs funded*
24 *pursuant to this article.*

25 *(2) A statement of the council's reasoning in cases in which the*
26 *council does not follow committee recommendations made pursuant*
27 *to subdivision (e).*

28 *(g) In furtherance of the purposes articulated in subdivision (c)*
29 *of Section 8262, the council may contract with, or offer grants to,*
30 *nonprofit commercial fishery organizations.*

31 *(h) The council may act as fiscal agent for the committee.*

32 8264. The council may receive funds for deposit in the account,
33 for purposes of this article, from sources other than the sale of
34 commercial fishing lobster ~~stamps~~ permits, including, but not
35 limited to, grants from the federal government, grants from private
36 foundations, money disbursed from court settlements, and
37 donations and bequests from individuals. Additional funds received
38 pursuant to this section shall not be deposited in the account unless
39 the person or entity providing the funds specifically designates in
40 writing, prior to or at the time of transmittal of the funds to the

1 council, that the funds are intended solely for deposit to that
2 account.

3 8265. This article shall remain in effect only until January 1,
4 2014, and as of that date is repealed, unless a later enacted statute,
5 that is enacted before January 1, 2014, deletes or extends that date.

6 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
7 ~~Section 6 of Article XIII B of the California Constitution because~~
8 ~~the only costs that may be incurred by a local agency or school~~
9 ~~district will be incurred because this act creates a new crime or~~
10 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
11 ~~for a crime or infraction, within the meaning of Section 17556 of~~
12 ~~the Government Code, or changes the definition of a crime within~~
13 ~~the meaning of Section 6 of Article XIII B of the California~~
14 ~~Constitution.~~